UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 October 2009*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5,7-13,46-57,59,63 and 67-75* is/are pending in the application.

    4a) Of the above claim(s) *72-75* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5,7-13,46-57,59,63 and 67-71* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____ .

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____ .

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____ .

Response to Amendment

This Office Action is in response to a communication made on October 13, 2009.

Claims 1-3, 5, 7, 10-11, 13, 46-50, 59, 63, 67-68 are currently amended.

Claims 72-75 are newly added.

Claims 6, 14-45, 58, 60-62, and 64-66 have been cancelled.

Claims 1-5, 7-13, 46-57, 59, 63, 67-75 are pending in this application.

Election/Restrictions

Newly submitted claims 72-25 directed to an invention that is independent or

distinct from the invention originally claimed for the following reasons:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I.   Claims 1-5, 7-13, 46-57, 59, 63, 67-75, drawn to pulling information from

        fields of a packet to determine how to process it, classified in class 709,

        subclass 231.

II.   Claims 72-75, drawn to process packets of differing packet length,

        classified in class 709, subclass 236.

Inventions I and II are related as subcombinations disclosed as usable together

in a single combination. The subcombinations are distinct if they do not overlap in

scope and are not obvious variants, and if it is shown that at least one subcombination

is separately usable. In the instant case, subcombination II has separate utility such as

hanging a situation where the packet length is not fixed in the network. See MPEP

§ 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;

(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

(c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C.

101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected invention.**

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Since applicant has received an action on the merits for the originally presented

invention, this invention has been constructively **elected by original presentation** for

prosecution on the merits. Accordingly, claims 72-75 withdrawn from consideration as

being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

Claim 63 recites the limitation "the second protocol" in lines 9-10. There is

insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-5, 7-10, 13, 46-54, 57, 59, 63, and 67-70 are rejected under 35

U.S.C. 103(a) as being unpatentable over Okamoto (7280566) in view of Gentry

(6356951).

Regarding claims 1 and 46, Okamoto teaches a method comprising the steps

of: receiving a first data stream of multimedia data, selecting the <u>first start code</u> of the

first stream from a plurality of available start codes, the first start code indicative of a

type of multimedia stream (Col. 12, lines 39 - 41; line 47 - Col. 13, line 3); parsing a

second packet of the first data stream based on the determined first start code (Col. 23,

lines 18 – 36; Col. 23, line 29 – Col. 24, line 10).

Okamoto does not explicitly indicate processing a first packet of the first data

stream based on the first start code to determine a first processed result: and in

response to determining the first processed result matches an expected result

Gentry teaches a protocol determination system that includes selecting a first

protocol from a plurality of available protocols; processing a first packet of the first data

stream based on the first test protocol to determine a first processed result: and in

response to determining the first processed result matches an expected result, choosing

the protocol (Col. 21, lines 30 – 51; Col. 22, lines 39 – 64).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to use Gentry's teaching of a programmed instructions for each of

select protocol (having an identifiable code or format) to have an editable updatable

system for testing unknown packets for the selected/programmed protocol.

Regarding claim 67, Okamoto teaches a method, comprising: receiving a first

data stream of multimedia data;

selecting a first set of physical interface parameters from a plurality of available

sets of physical interface parameters (Col. 23, lines 18 – 36; Col. 23, line 29 – Col. 24,

line 10); processing a first packet of the first data stream based on the first set and

parsing a second packet of the first data stream based on the first set (Col. 23, lines 18

– 36; Col. 23, line 29 – Col. 24, line 10).

Okamoto does not explicitly indicate processing a first packet of the first data stream based on the first test to determine a first processed result: and in response to determining the first processed result matches an expected result, choosing the protocol.

Gentry teaches a protocol determination system that includes selecting a first protocol from a plurality of available protocols; processing a first packet of the first data stream based on parameters of the first test protocol to determine a first processed result: and in response to determining the first processed result matches an expected result, choosing the protocol (Col. 21, lines 30 – 51; Col. 22, lines 39 – 64).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Gentry's teaching of a programmed instructions for each of select protocol (having an identifiable code or format) to have an editable updatable system for testing unknown packets for the selected/programmed protocol.

Regarding claim 2, Okamoto teaches the method as in claim 1, wherein the first protocol selected from the group consisting of MPEG-2, Direct TV, and DVD protocols (Col. 23, lines 56 – 64).

Regarding claim 3, Okamoto teaches the method as in claim 1, further comprising: storing a second portion of the first data stream in memory after the step of selecting the first start code (Col. 23, lines 37 – 45).

Regarding claims 5 and 47, Okamoto teaches the method as in claims 1 and 46 further comprising generating a database based on parsing the second packet, the

database comprising the information indicating a first property associated with the first

data stream (Col. 25, line 59 - Col. 26, line 54-56).

Okamoto does not explicitly indicate second information different from the first

indicating a second property associated with the first data stream, the second property

different from the first.

Gentry teaches storing a first set of descriptors based on processing the first

packet in a first database, a first descriptor of the first set of descriptors identifying a first

property of the first data stream (Col. 25, line 59 - Col. 26, line 54-56).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to use Gentry's teaching of a programmed instructions for each of

select protocol (having an identifiable code or format) to have an editable updatable

system for testing unknown packets for the selected/programmed protocol.

Regarding claims 4 and 48, Okamoto teaches the method as in claims 3 and

47, wherein the second portion of the first data stream is received after the first portion

of the first data stream(Col. 23, lines 37 – 45; where the second portion is the step of

keeping the packet information to extract further information).

Regarding claim 49, Okamoto teaches the device of Claim 47, wherein the

memory is configured to store a second portion of the first data stream after the

microcode engine selects the first start code and wherein the second portion of the first

data stream includes the first portion of the first data stream (Col. 23, lines 37 - 45).

Regarding claim 50, Okamoto teaches the device of claim 47, further

comprising a stream engine coupled to an output of transport stream demultiplexor (Fig

1, element 1300).

Regarding claims 7 and 51, Okamoto teaches the method as in claims 6 and

50, further comprising parsing the second packet comprises a first set of descriptors

associated with the first data stream (Col. 23, lines 40 - 46).

Regarding claims 8, 52, and 68, Okamoto teaches the method as in claims 7,

51, and 67, wherein the first set of descriptors includes a descriptor from the set of

descriptors comprising a network identifier, multiplex information, and program

information (Col. 23, lines 40 - 65).

Regarding claims 9, 53, and 69, Okamoto teaches the method as in claims 8,

52, and 68, wherein multiplex information includes transport stream identifiers and

program identifiers (Col. 23, lines 40 - 46).

Regarding claims 10, 54, and 70, Okamoto teaches the method as in claims 8,

52, and 68, wherein the program information includes program numbers, program

recovery clock identifiers, video data identifiers and audio data identifiers (Col. 2, lines

20 – 62; Col. 4, line 46 – Col. 5, line 20).

Regarding claims 13 and 57, Okamoto teaches the method as in claims 1 and

47, wherein the memory includes a frame buffer (Col. 12, line 65 - Col. 13, line 16).

Regarding claims 59 and 63, Okamoto teaches the method of claims 1 and 46.

Okamoto does not explicitly indicate in response to determining the first

processed result does not match the expected result: selecting a second start code from

the plurality of available protocols; processing the first packet based on the second test

start code to determine a second processed result; and in response to determining the

second processed result matches an expected result, parsing a second packet of the

first data stream based on the second protocol.

Gentry teaches in response to determining the first processed result does not

match the expected result: selecting a second protocol from the plurality of available

protocols; processing the first packet based on the second test protocol to determine a

second processed result; and in response to determining the second processed result

matches an expected result, parsing a second packet of the first data stream based on

the second protocol (Col. 21, lines 30 – 51; Col. 22, lines 39 – 64).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to use Gentry's teaching of a programmed instructions for each of

select protocol to have an editable updatable system for testing unknown packets for

the selected/programmed protocol.

Claims 11-12, 55-56, and 71 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Okamoto in view of Gentry, and in further view of the

examiner's official notice.

Regarding claims 11 and 55, Okamoto teaches the method as in claims 8 and

52 and analyzing and filtering packet streams based on any type of extracted

management information (Col. 4, line 46 – Col. 5, line 20) and whether is an elementary

stream (Col 34, lines 30 - 39), but Okamoto does not explicitly indicate wherein the set

of descriptors further includes elementary stream information and closed captioning
information.

The examiner takes "official notice" that elementary stream information and
closed captioning information are types of information that can be extracted from
packets and used to help process a media stream.

Regarding claims 12, 56, and 71, Okamoto teaches the method as in claims 11,
55, and 68, and analyzing and filtering packet streams based on any type of extracted
management information (Col. 4, line 46 – Col. 5, line 20) and whether is an elementary
stream (Col 34, lines 30 - 39), but Okamoto does not explicitly indicate wherein the set
of descriptors further includes elementary stream information and closed captioning
information.

The examiner takes "official notice" that data stream types and elementary
stream identifiers are types of information that can be extracted from packets and used
to help process a media stream.

Response to Arguments

Applicant's arguments filed October 13, 2009 have been fully considered but they
are not persuasive.

The applicant argues that Okamoto does not teach a first start code from a
plurality of start codes. The examiner disagrees; Okamoto teaches that teach data
stream contains a TSID code for identifying the format from a plurality of formats that
the device can receive (Col. 12, lines 49 - 59).

The applicant further argues that Okamoto does not teach that the system stores an identifier indicating a network. The examiner disagrees; Okamoto teaches receiving a format identifier which indicates to the decoder what type of protocol format, thus which type of network protocol the packet has been received (Col. 23, line 29 – Col. 24, line 10).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN BATES whose telephone number is (571)272-3980. The examiner can normally be reached on M-F 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax

phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KEVIN BATES/
Primary Examiner, Art Unit 2456